

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**D. Remarks****Rejection of Claims 3 and 7 Under 35 U.S.C. §112, First Paragraph.**

Claims 3 and 7 have been amended to overcome the stated objections.

5 In particular, claims 3 and 7 have been amended in accordance with particular embodiment protocol details¹ rather than any particular protocol type. Accordingly, such amendments present no new matter.

10 **Rejection of Claims 1-2 and 4-5 Under 35 U.S.C. §102(b) based on U.S. Patent No. U.S. Patent No. 5,742,596 (*Baratz et al.*)**

The invention of amended claim 1 is directed to a voice and data network that includes a telephone and a computer connected to a voice and data module (VDM), and a plurality of VDMs connected to a plurality of telephone wires in a building. The telephone wires are connected together provide a telephone network intended primarily for telephony. The voice and data network also includes a link to wide area network (LTW) that connects the telephone network to a Public Service Telephone Network (PSTN) and an Internet Service Provider (ISP). The LTW and VDM devices communicate together over said telephone network using communication addresses assigned to the LTW and each of the VDM devices.

20 As is well known, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single reference. Because the reference *Baratz et al.* is not believed to show all elements of amended claim 1, this ground of rejection is traversed.

As emphasized above, Applicant's voice and data network includes a telephone network intended primarily for telephony. Applicant notes that this amendment reflects the well established meaning for a telephone network. In support of this, Applicant submits herewith a definition of "telephone network" in Appendix A.

Applicant also notes that this difference between telephone networks and data (packet) networks is emphasized in the cited reference.

30 Most companies maintain two separate networks: a voice telephone network and a

¹ See Applicant's Specification, Page 11, Lines 19-22.

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data network, typically a Local Area Network (LAN).²

It is believed this definition rebuts the "broad" interpretation relied upon by the rejection, that would argue that a telephone network encompasses any kind of network that carries voice data.³

The system of *Baratz et al.* does not show a telephone network, as recited in claim 1. In particular, the rejection argues that the network 37 of *Baratz et al.* shows Applicant's "telephone network". However, such a network is not a telephone network, as it is not intended for primarily telephony, but rather data network services:

There is thus provided, in accordance with a preferred embodiment of the present invention, a private branch exchange system distributed across a *packet based network*...⁴

Telephony server 44 is also coupled to network 37 via NIC 43 installed in its host computer 40. Network 37 may alternatively be any suitable infrastructure providing network services for all attached devices or clients, such as a local area network (LAN) (e.g. Novell), wide area network (WAN), wireless LAN, Ethernet type network, Token Ring network, FDDI network, etc.⁵

The above examples of *Baratz et al.* all teach data networks, not a telephone network (intended primarily for telephony), as recited in amended claim 1. Further, as noted in Applicant's previous response, *Baratz et al.* teaches a network 37 formed of a LAN cabling. Thus, the reference teaches a data network adapted to accommodate voice data: this is not a telephone network intended primarily for telephony.

As was noted in Applicant's previous response, *Baratz et al.* seems directed to the opposite arrangement of Applicant's claim 1. Applicant's claim 1 invention can utilize an existing telephone system, intended primarily to provide telephony, to provide voice and data. In

² *Baratz et al.*, Col. 1, Lines 30-31.

³ See the Final Office Action, dated 10/20/03, Page 8, Lines 6-9.

⁴ *Baratz et al.*, Col. 2, Lines 9-12, emphasis added.

⁵ *Baratz et al.*, col. 5, Lines 29-34.

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contrast, *Baratz et al.* teaches a data network adapted to provide telephony.

Accordingly, because the cited reference does not show all limitations of amended claim 1, this ground of rejection is traversed.

5 Rejection of Claims 6 and 8-10 Under 35 U.S.C. §103(a) based on *Baratz et al.*

The invention of amended claim 6 is directed to a method for communicating between network elements in a voice and data network. The method includes (a) monitoring a communication network by a first voice and data module (VDM) and (b) monitoring a first phone and a first computer attached to said first VDM.

10 The method further includes (c) detecting said outgoing call and connecting said call by control of the first VDM if said destination is not busy, else providing a busy signal and disconnecting said outgoing call and (d) detecting an incoming call and connecting said call by control of the first VDM if a receiving device comprising said first phone and said first computer is not busy, else sending back said busy signal and disconnecting said incoming call. The
15 method also includes (e) disconnecting phone calls or computer calls when a phone hang up or a computer disconnect signal is detected and returning to monitoring said network for said incoming call.

Thus, as emphasized above, amended claim 6 recites that connecting calls from/to the first VDM by control of the first VDM.

20 As is well known, to establish a prima facie case of obviousness, a rejection must meet three basic criteria. First, there must be some suggestion or motivation to modify a reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference(s) must teach or suggest all claim limitations.

The cited reference *Baratz et al.* does not show call connection by control of a first VDM.
25 In *Baratz et al.*, a telephony server (argued to correspond to Applicant's link to wide area network, or LTW) controls connections:

[T]he telephony server for providing call switching capabilities to the system...⁶

30 The telephony server supervises all system control processes, such as switching

⁶ *Baratz et al.*, Col. 2, Lines 14-15.

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functions... internal calls made from one extension to another extension involve the telephony server only for the call setup, status monitoring and tear down of the call.⁷

5 During the call setup phase of the call, network addresses (i.e. physical extensions) for both parties are retrieved from telephony server 44. The calling party is given the network address of the called party and vice versa.⁸

The above is believed to show that call connection and disconnection (e.g., setup and tear
10 down) in *Baratz et al.* is controlled by a telephony server. This is in contrast to Applicant's invention which controls connection by a first VDM.

Thus, because the cited reference is not believed to show or suggest all limitations of claim 6, a prima facie case of obviousness has not been established, and this ground for rejection is traversed.

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⁷ *Baratz et al.*, Col. 5, Lines 59-66.

⁸ *Baratz et al.*, Col. 6, Lines 51-57.

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Claims 1, 3, 6 and 7 have been amended. The present claims 1-10 are believed to be in allowable form. It is respectfully requested that the application be forwarded for allowance and issue.

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Respectfully Submitted,

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